

REMARKS

I. Introduction

Claims 9 to 19 are pending in the present application. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable and reconsideration is respectfully requested.

As an initial matter, Applicants note that the Office Action Summary does not include an acknowledgment of the claim of foreign priority and does not indicate whether a copy of a certified copy of the priority document has been received from the International Bureau. A claim of priority to Application No. 100 15 299.6, filed in the Federal Republic of Germany on March 28, 2000, was made, inter alia, in the "Declaration and Power of Attorney," filed on March 26, 2002. A certified copy of German Application No. 100 15 299.6 is filed herewith along with a certified English-language translation thereof.

Applicants thank the Examiner for considering the previously filed Information Disclosure Statement, PTO Form 1449 paper and cited references. Applicants note however that in the initialed copy of the PTO Form 1449 paper, a line is drawn through the listing of European Published Patent Application No. 1 078 803. No explanation has been provided as to whether such publication has been considered. While Applicants believe and respectfully submit that the listing of European Published Patent Application No. 1 078 803 was proper and that this publication should have been considered, Applicants submit herewith a Supplemental Information Disclosure Statement again citing European Published Patent Application No. 1 078 803. Consideration of this publication is respectfully requested, and an initialed copy of the PTO Form 1449 paper indicating consideration of this publication is respectfully requested with the next Office communication.

II. Objection to the Drawings

The drawings were objected to under 37 C.F.R. § 1.83(a). The Office Action alleges that the drawings must show "the steps for notifying a driver of a vehicle having adaptive cruise control." Office Action at p. 4. While it is respectfully submitted that the Figures are fully compliant with the requirements of 37 C.F.R. § 1.83(a), to facilitate matters, Figure 3 has been added herein. Figure 3 shows a

possible functional sequence scenario which can occur during operation of the vehicle under ACC, according to an example embodiment of the present invention. Support for this new drawing may be found throughout the application. No new matter has been added. Withdrawal of this objection is therefore respectfully requested.

III. Rejection of Claims 9 to 19 Under 35 U.S.C. § 112

Claims 9 to 19 were rejected under 35 U.S.C. § 112, second paragraph as allegedly indefinite. While Applicants respectfully submit that the claims as previously presented fully comply with the definiteness requirement of 35 U.S.C. § 112, to facilitate matters, claims 9, 13, 15, 17 and 19 have been amended herein without prejudice to make even more clear the subject matter of these claims. Claims 10 to 12, 14, 16 and 18 ultimately depend from claim 9. In view of the foregoing, it is respectfully submitted that the claims as amended herein fully comply with the requirements of 35 U.S.C. § 112, and withdrawal of this rejection is respectfully requested.

IV. Rejection of Claim 19 Under 35 U.S.C. § 102(e)

Claim 19 was rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Published Patent Application No. 2002/0105423. It is respectfully submitted that U.S. Published Patent Application No. 2002/0105423 does not anticipate claim 19 for the following reasons.

The present application entered the national stage under 35 U.S.C. § 371 on March 26, 2002 based on International Application No. PCT/DE01/00552, having an international filing date of **February 14, 2001**, and, as indicated above, the present application claims priority to Application No. 100 15 299.6, filed in the Federal Republic of Germany on **March 28, 2000**. A claim of priority to German Application No. 100 15 299.6 was made, *inter alia*, in the "Declaration and Power of Attorney," filed on March 26, 2002. A certified copy of German Application No. 100 15 299.6 is submitted herewith, and a certified English-language translation of German Application No. 100 15 299.6 is submitted herewith.

In contrast, U.S. Published Patent Application No. 2002/0105423 was published on **August 8, 2002** from U.S. Patent Application Serial No. 09/730,327, filed on **December 5, 2000**. Since U.S. Published Patent Application No.

2002/0105423 was published after the March 28, 2000 priority date of the present application and since priority to German Application No. 100 15 299.6 has been perfected by the submission of the enclosed certified copy thereof and the enclosed certified English-language translation thereof, it is respectfully submitted that U.S. Published Patent Application No. 2002/0105423 does not constitute prior art against the present application. Withdrawal of this rejection is therefore respectfully requested.

V. Rejection of Claims 9, 11, 14, and 15 Under 35 U.S.C. § 103(a)

Claims 9, 11, 14, and 15 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Published Patent Application No. 2002/0105423. It is respectfully submitted that U.S. Published Patent Application No. 2002/0105423 does not render unpatentable claims 9, 11, 14, and 15 for the following reasons.

As more fully set forth above, U.S. Published Patent Application No. 2002/0105423 does not constitute prior art against the present application because U.S. Published Patent Application No. 2002/0105423 was published after the March 28, 2000 priority date of the present application and because priority to German Application No. 100 15 299.6 has been perfected by the submission of the enclosed certified copy thereof and the enclosed certified English-language translation thereof. Withdrawal of this rejection is therefore respectfully requested.

VI. Allowable Subject Matter

Applicants thank the Examiner for the indication of allowable subject matter contained in claims 10, 12, 13, and 16 to 18.

VII. Conclusion

In view of all of the above, it is believed that the objections and the rejections have been obviated, and that claims 9 to 19 are allowable. It is therefore respectfully requested that the objections and rejections be withdrawn, and that the present application issue as early as possible.

Respectfully submitted,

KENYON & KENYON

Dated: 1/20/04

By: *[Signature]*
Richard L. Mayer
(Reg. No. 22,490)
By: [Signature] B/M 35,952

One Broadway
New York, NY 10004-1050
Phone: 212-425-7200
Fax: 212-425-5288

CUSTOMER NO. 26646